

Division 3. Air Resources Board

Chapter 9. Off-Road Vehicles and Engines Pollution Control Devices

Article 5. Portable Engine and Equipment Registration

§ 2451. Applicability.

(a) Except for (d) of this section, registration under this regulation is voluntary for owners and operators of portable engines or equipment units.

(b) This regulation applies to portable engines and equipment units as defined in section 2452. Except as provided in paragraph (c) of this section, any portable engine or equipment unit may register under this regulation. Examples include, but are not limited to:

(1) portable equipment units driven solely by portable engines including confined and unconfined abrasive blasting, Portland concrete batch plants, sand and gravel screening, rock crushing, and unheated pavement recycling and crushing operations;

(2) consistent with section 209(e) of the federal Clean Air Act, engines used in conjunction with the following types of portable operations: well drilling, service or work-over rigs; power generation, excluding cogeneration; pumps; compressors; diesel pile-driving hammers; welding; cranes; woodchippers; dredges; equipment necessary for the operation of portable engines and equipment units; and military tactical support equipment.

[Note: Under section 209(e)(1) of the federal Clean Air Act [42 U.S.C. 7543(e)(1)], California is preempted from establishing emission standards or other requirements related to the control of emissions (other than in-use operational controls) for new engines under 175 horsepower used in farm and construction operations, as defined by the U.S. EPA in 40 Code of Federal Regulations (CFR) Part 85, Subpart Q, Section 85.1601 et seq. [see 59 Fed. Reg. 36969 (July 20, 1994)]. Federal preemptions should only affect engines less than 175 brake horsepower used in construction operations because California law exempts agricultural operations from permit and registration programs as stated in section (c)(2) below. Accordingly, references to the federal preemptions as they apply to this regulation will refer to requirements for construction equipment using engines less than 175 brake horsepower.

See Engine Manufacturers Association v. EPA (88 F.3d1075 [D.C. Cir. 1996]). Under section 209(e)(2) [42 U.S.C. 7543(e)(2)] of the CAA, California is required to receive authorization from the U.S. EPA prior to enforcing its regulations for nonroad equipment not otherwise preempted under section 209(e)(1). See Engine Manufacturers Association, (supra). To date, ARB has received authorization for regulations covered in Title 13, California Code of Regulations sections 2400-2407 (see 54 Fed. Reg. 37440 [July 20, 1995]) and sections 2420-2427 (see 59 Fed. Reg. 48981 [September 21, 1995]).]

(c) The following are not eligible for registration under this program:

(1) any engine used to propel mobile equipment or a motor vehicle of any kind;

(2) any portable engine or equipment unit used exclusively in agricultural operations, as defined in California Health and Safety Code section 42310(e);

(3) any engine or equipment unit not meeting the definition of portable as defined in section 2452(x) of this regulation;

(4) any equipment unit determined by the Executive Officer to qualify as part of a stationary source permitted by a district;

(5) any portable engine or equipment unit subject to an applicable federal Maximum Achievable Control Technology standard, or National Emissions Standard for Hazardous Air Pollutants, or federal New Source Performance Standard, except for equipment units subject to 40 CFR Part 60 Subpart OOO (Standards of Performance for Nonmetallic Mineral Processing Plants);

(6) any portable engine or equipment unit operating within the boundaries of the California Outer Continental Shelf (OCS) [Note: This shall not prevent statewide registration of engines and equipment units already permitted by a district for operation in the OCS. Such statewide registration shall only be valid for operation onshore and in State Territorial Waters (STW).];

(7) any dredging operation in the Santa Barbara Harbor; and

(8) any dredging unit owned by a single port authority, harbor district, or similar agency in control of a harbor, and operated only within the same harbor.

(d) In the event that the owner or operator of a portable engine or equipment unit elects not to register under this program, the unregistered portable engine or equipment unit shall be subject to district permitting requirements pursuant to district regulations. However, registration under this program is mandatory for those portable engines rated at 50 brake horsepower or greater that are located in a district having a permit or registration program that establishes emission standards or emission limits applicable to portable engines, and the Executive Officer has determined that the district program has been preempted by federal law.

(1) For the purpose of this provision, a permit or registration program applicable to portable engines is defined as a program which establishes emission control technology requirements, in-use operational controls (e.g., daily or annual emission limits), or proposed control measures contained in the State Implementation Plan.

Board Administration and Regulatory Coordination Unit

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(2) Upon determining that a district program has been preempted as to specific engines by the federal Clean Air Act, the Executive Officer will issue an Executive Order setting forth such findings. Affected owners and/or operators of portable engines will be notified within 30 days by the ARB and/or districts of the issuance of the Executive Order and shall, within 180 days of issuance of the Executive Order, submit an application for registration under this regulation. An owner or operator of portable engines that are required to register pursuant to this section may elect to use current daily and annual emission limit permit conditions of the district in which the portable engine is to be operated, in place of the daily and annual requirements of this regulation. Any daily and hourly emission limits of a district that are used in lieu of this regulation's limits are only valid during operation in that district. If the engine is operated in a district that previously did not have a permit program, the daily and annual requirements of this regulation will apply. All other requirements of this regulation are applicable to the portable engine.

NOTE: Authority cited: Sections 39600-39601, 41752-41755, 43013(b) and 43018, Health and Safety Code. Reference: Sections 41750-41755, Health and Safety Code.

REFERENCE